

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CABELA’S INCORPORATED,

Plaintiff

v.

GANDER MOUNTAIN COMPANY,

Defendant.

Case No.

TRIAL BY JURY DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Cabela’s Incorporated (“Plaintiff” or “Cabela’s”), by its attorneys, Quarles & Brady LLP, for its complaint against Gander Mountain Company (“Defendant” or “Gander Mountain”), hereby alleges as follows:

THE PARTIES

1. Plaintiff is a Delaware corporation with its principal place of business at One Cabela Drive, Sidney, Nebraska 69160.
2. On information and belief, Gander Mountain is a Minnesota corporation with its principal place of business at 180 East Fifth Street, Suite 1300, St. Paul, Minnesota 55101.

JURISDICTION

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §1, *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant because, on information and belief, Defendant conducts substantial business in the State of Illinois and within the Northern District of Illinois. Defendant makes, imports, sells, offers to sell, and or/induces the sale of infringing products, directly or through intermediaries, in or into Illinois and this judicial District, thereby causing injury and damages in Illinois and this judicial District, which may result from acts committed outside Illinois or the District, including but not limited to utilizing their own established distribution channels or distribution channels of an intermediary to market and sell infringing products in Illinois and this District. In conducting their business in Illinois and this judicial District, Defendant derives substantial revenue from infringing products being sold, used, or consumed in Illinois and this District, and will continue to do so unless enjoined by this Court.

5. Venue in this District is proper under 28 U.S.C. §§ 1391 and 1400(b) because, on information and belief, the accused acts of direct infringement occur in this District, as Defendant makes or imports infringing products in or into this District, and/or sells, offers to sell and/or induces the sale of infringing products to customers in this District.

FACTS GIVING RISE TO THIS ACTION

6. Paragraphs 1-5 are incorporated by reference as if set forth here in full.

7. Cabela's is the owner of United States Patent No. 6,233,765 ("the '765 Patent"), entitled "Organizer," properly issued on May 22, 2001. A true and correct copy of the '765 Patent is attached hereto as Exhibit A.

8. On information and belief, Defendant maintains a website through which it advertises, offers to sell and/or distributes cot organizers including one or more cot organizers under the name “Tracker Extreme.”

9. On information and belief, Defendant has offered for sale, sold, or caused to be sold in the Northern District of Illinois the “Tracker Extreme.”

10. On information and belief, the cot organizers imported, made, offered, sold, used, and/or distributed by Defendant, including the “Tracker Extreme,” infringe claims of the ‘765 Patent.

COUNT I

Infringement of U.S. Patent No. 6,233,765

11. Paragraphs 1 - 10 are incorporated by reference as if set forth here in full.

12. By its conduct, Defendant is directly infringing at least claims 23-25, 28-30, and 33-34 of the ‘765 Patent in violation of 35 U.S.C. § 271.

13. Upon information and belief, Defendant’s infringement has been intentional, willful, and with reckless disregard for the rights of Plaintiff.

14. Defendant has caused Plaintiff to suffer, and unless enjoined by this Court, will continue to cause Plaintiff to suffer substantial injury, including lost profits, loss of exclusivity, and lost benefit of significant and expensive advertising, for which Plaintiff is entitled to damages adequate to compensate it for Defendant’s infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks the following relief from this Court:

1. A judgment that Defendant has infringed and is infringing the ‘765 Patent;

2. For Defendant and its officers, agents, attorneys and employees, and those acting in privity or in concert with them, to be enjoined from infringing the '765 Patent;
3. An award of damages to Plaintiff including pre-judgment and post-judgment interest, in an amount adequate to compensate for Defendant's infringement of the '765 Patent, but in no event less than a reasonable royalty on Defendant's use of Plaintiff's invention;
4. An award of costs and expenses in this action; and
5. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues properly tried to a jury.

Dated: February 1, 2013

Respectfully submitted,

/s/ Gregory P. Sitrick

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